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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 61 PRACTICE OF MEDICAL NUTRITION THERAPY

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TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 61 PRACTICE OF MEDICAL NUTRITION THERAPY

61-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Medical Nutrition Therapy as defined by Neb. Rev. Stat. §§ 71-1,285 to 71-1,294 and the Uniform Licensing Law. The Board will base its actions on broad categorical parameters derived from the essential elements of the field of medical nutrition therapy. It will not endorse nor restrict its assessment to any particular nutritional school of thought in its selection of examinations, passing criterion for such examinations, evaluation of credentials, approval of continuing competency hours, application of practice standards, or in any other actions.

61-002 DEFINITIONS:

Accredited College or University means an institution currently listed with the United States Secretary of Education as accredited. Applicants who have obtained their education outside of the United States and its territories must have their academic degrees validated as equivalent to a baccalaureate or master's degree conferred by a United States regionally accredited college or university.

Act means Neb. Rev. Stat. §71-1,285 to 71-1,294 known as the Practice of Medical Nutrition Therapy.

ADA means the American Dietetic Association.

Anghoff Method means a method of determining passing scores based on aggregate information obtained by having judges predict the probability that a hypothetical minimally competent candidate will correctly answer items in a test.

Assessment means the process of evaluating the nutritional status of patients. The assessment includes review and analysis of medical and diet histories, biochemical lab values, and anthropometric measurements to determine nutritional status and appropriate nutritional treatment.

1. An example of assessment could include:
 - a. Collect/review of records (verify as needed). The records may include anthropometric data; diagnoses, laboratory values, medications, diet order; physical assessment data; and food preference/diet history information;
 - b. Determine complete nutritional plan of care: fluid need, calorie/protein need, appropriate diet order, need for specific form of food, need for specific adaptive devices for feeding techniques, need for supplemental food, fluid, medical nutritional product;
 - c. Review/refine goals set for the patient;
 - d. Review/refine plan to achieve the established goals; and
 - e. Recommend changes in physician's diet order to physician when identified.

2. The mere collection of these data for use in assessment is not medical nutrition therapy and does not require medical nutrition therapy licensure under these regulations.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Medical Nutrition Therapy.

Clinical Experience means experience consisting of not less than 900 hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of a licensed medical nutrition therapist. The clinical experience must be completed in an:

1. ADA accredited coordinated program; or
2. ADA accredited dietetic internship program; or
3. ADA approved pre-professional practice program; or
4. ADA approved traineeship program.
5. A program approved by the Board. The Board will accept programs which include standards that are equivalent to the programs identified in 1 and 2 of this section.

Completed Application means an application with all of the information requested on the application filled in, the signature of the applicant, fees and all required documentation submitted.

Consultation means conferring with a physician regarding the activities of the licensed medical nutrition therapist.

Continuing Competency means to ensure

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice medical nutrition therapy,
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to the public. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. Section § 71-161.09.

Continuing Competency programs/activities may be offered as follows:

1. College/University Coursework
2. Exhibits
3. Poster Sessions
4. Homestudy Programs
5. Publications
6. Certification Programs
7. Continuing Education Programs or Presentations

In order for continuing competency to be recognized/count for licensure renewal it must be approved by the Board.

Continuing Competency hours/credits are determined as follows:

1. College/University Coursework:
 - a. 1 semester of academic credit equals 15 continuing competency credit hours. One semester credit audited equals 8 hours of continuing competency;
 - b. 1 quarter hour of academic credit equals 10 continuing competency credit hours. One quarter credit audited equals 5 hours of continuing competency; and
 - c. 1 trimester hour of academic credit equals 14 continuing competency credit hours. One trimester credit audited equals 7 hours of continuing competency.
2. Exhibits: 25 exhibits equals 1 continuing competency hour; a limit of 6 continuing competency credit hours per biennium may be obtained through exhibits.
3. Poster Sessions: 6 poster sessions equals 1 continuing competency hour; a limit of 10 continuing competency credit hours per biennium may be obtained through poster sessions.
4. Homestudy Programs: A licensee may accumulate up to 15 hours of continuing competency per biennial renewal period.
5. Publications: A licensee may accumulate up to 20 hours of continuing competency per biennial renewal period.
6. Certificate Program: 30 hours will be granted for completing a certificate program as follows:
 - a. Certified Nutrition Support Dietician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
 - b. Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - c. Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - d. Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
 - e. Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE); or
 - f. Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR).
7. Continuing Education Programs or Presentations: 60 minutes of participation equals 1 continuing competency hour.

Data Collection means the collection of anthropometric data: such as height, weight, age; laboratory values; current medications; diagnoses; food preference; diet history; etc. The collection of data may be completed by ancillary personnel and submitted to the medical nutrition therapist in writing for medical records. The mere collection of these data for use in assessment is not medical nutrition therapy and does not require medical nutrition therapy licensure under these regulations.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201 for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure.

General Nutrition Services includes, but is not limited to:

1. Identifying the nutritional needs of individuals and groups in relation to normal nutritional requirements; and
2. Planning, implementing, and evaluating nutrition education programs for individuals and groups in the selection of food to meet normal nutritional needs throughout the life cycle.

Hour, as used for the 900 hours of clinical experience in 172 NAC 61-003.02A, item 2 and 61-003.04A, item 1a means clock hour. One semester hour of academic credit will constitute 15 clock hours; one quarter hour of academic credit will constitute 10 clock hours; and one trimester hour of academic credit will constitute 14 clock hours. This means an individual must earn at least 60 semester hours, or 90 quarter hours, or 64.5 trimester hours of academic credit to equal the 900 hours of clinical experience.

Hour, as used for the course of study in clinical nutrition which shall consist of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition, in 172 NAC 61-003.03A, item 2 and 61-003.04A, item 3, means clock hour. One semester hour of academic credit will constitute 15 clock hours; one quarter hour of academic credit will constitute 10 clock hours; and one trimester hour of academic credit will constitute 14 clock hours. This means an individual must earn at least 13.5 semester hours, or 20 quarter hours, or 14.5 trimester hours to equal the 200 hours needed for the combined biochemistry and physiology; and an individual must earn at least 5 semester hours, or 7.5 quarter hours, or 5.5 trimester hours to equal the 75 hours needed in human nutrition.

Inactive Status means the voluntary termination of the right or privilege to represent oneself as a medical nutrition therapist, but retains the right to represent himself or herself as holding an inactive license.

Lapsed Status means the voluntary termination of the right or privilege to represent oneself as a medical nutrition therapist.

Licensed Medical Nutrition Therapist means a person who is licensed to practice medical nutrition therapy pursuant to the Uniform Licensing Law and who holds a current license issued by the Department.

Licensure Examination means the Registration Examination for Dietitians, as established by the Commission on Dietetic Registration, the credentialing agency of the American Dietetic

Association, or any other examination established by the Commission on Dietetic Registration and determined by the Board to be equivalent.

Medical Nutrition Therapy means the assessment of the nutritional status of patients. It involves the assessment of patient nutritional status followed by treatment, ranging from diet modification to specialized nutrition support, such as determining nutrient needs for enteral and parenteral nutrition, and monitoring to evaluate patient response to such treatment.

Observation means watching the patient during intake of food and fluid. Ancillary personnel may document an observation, such as anthropometric data, food preferences, etc., for medical records or on the patient's chart. Ancillary personnel may also direct questions to the physician in charge or the medical nutrition therapist and may make recommendations based on observations.

Official Transcript means issued by and under the original seal of the educational institution.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 61.

Patient means a person with a disease, illness, injury, or medical condition for which nutritional interventions are an essential component of standard care.

Practice of Medical Nutrition Therapy means performed under the consultation of a licensed physician.

Provider of Continuing Competency means an association, educational institution, individual or group who requests approval from the Board of continuing competency program/activities, and presents continuing competency program/activities to licensees.

Verified means sworn to before a Notary Public.

61-003 MEDICAL NUTRITION THERAPY LICENSURE: No person shall practice medical nutrition therapy unless s/he is licensed for such purpose pursuant to the Uniform Licensing Law. The criteria for issuance of licensure, and the documentation required by the Department and the Board are set forth below.

61-003.01 American Dietetic Association (ADA) Registration

61-003.01A Requirements: An applicant must:

1. Have met the requirements for and be a registered dietitian with the American Dietetic Association or an equivalent entity recognized by the board; and
2. Have attained at least the age of majority and have good moral character.

61-003.01B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or on an alternate form containing the same information. Only applications which are complete will be considered;

2. Official documentation of registration with the Commission on Dietetic Registration;
3. Evidence that s/he is at least the age of majority, such as:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license; or
 - d. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a misdemeanor or felony:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
6. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
7. The required licensure fee.

61-003.01C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

61-003.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 61-014, or such other action as provided in the statutes and regulations governing the credential.

61-003.01E Department Review: The Department will act within 150 days upon all completed applications for licensure.

61-003.02 Baccalaureate Degree.

61-003.02A Requirements: An applicant must:

1. Have a baccalaureate degree from an accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board; and

2. Have satisfactorily completed a program of supervised clinical experience approved by the Department. Such clinical experience must consist of not less than 900 hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of a medical nutrition therapist;
3. Have attained at least the age of majority and have good moral character; and
4. Have satisfactorily passed the licensure examination with a score as determined by using the Angoff Method.

61-003.02B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or on an alternate form containing the same information. Only applications which are complete will be considered;
2. An official transcript from an accredited college or university showing receipt of a baccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board;
3. Documentation of at least 900 hours of supervised clinical experience on Attachment A1 or on an alternate form containing the same information;
4. Official documentation of the examination score from the American Dietetic Association or scores sent by the Commission on Dietetic Registration;
5. Evidence that s/he is at least the age of majority, such as:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license; or
 - d. Other similar documentation;
6. If any disciplinary action was taken against the applicant's license by another state,
an official copy of the disciplinary action, including charges and disposition;
7. If the applicant has been convicted of a misdemeanor or felony:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
8. Attestation by the applicant:

- a. That s/he has not practiced in Nebraska prior to the application for a license; or
- b. To the actual number of days practiced in Nebraska prior to the application for a license; and

9. The required licensure fee.

61-003.02C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

61-003.02D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 61-014, or such other action as provided in the statutes and regulations governing the credential.

61-003.02E Department Review: The Department will act within 150 days upon all completed applications for licensure.

61-003.03 Master's or Doctoral Degree

61-003.03A Requirements: An applicant must:

1. Have a master's or doctoral degree from an accredited college or university in human nutrition, nutrition education, food and nutrition, or public health nutrition, or in an equivalent major course of study with the intent of the degree being nutrition in nature and approved by the Board; or
2. Have a master's or doctoral degree from an accredited college or university which includes a major course of study in clinical nutrition. Such course of study shall consist of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition;
3. Have attained at least the age of majority and have good moral character; and
4. Have satisfactorily passed the licensure examination with a score as determined by using the Angoff Method.

61-003.03B Application Process. The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or on an alternate form containing the same information. Only applications which are complete will be considered; and
2. An official transcript from an accredited college or university showing receipt of one of the following:
 - a. A master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition or in an equivalent major

course of study with the intent of the degree being nutrition in nature and approved by the Board; or

- b. A master's or doctoral degree which included a major course of study in clinical nutrition; and
 - (1) Verification of completion of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition;
- 3. Official documentation of the examination score from the American Dietetic Association or scores sent by the Commission on Dietetic Registration;
- 4. Evidence that s/he is at least the age of majority, such as:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license; or
 - d. Other similar documentation;
- 5. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
- 6. If the applicant has been convicted of a misdemeanor or felony:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
- 7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
- 8. The required licensure fee.

61-003.03C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

61-003.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 61-014, or such other action as provided in the statutes and regulations governing the credential.

61-003.03E Department Review: The Department will act within 150 days upon all completed applications for licensure.

61-003.04 Reciprocity (Licensure or Certification Issued in Another Jurisdiction)

61-003.04A Requirements: An applicant must:

1. Have a baccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board; and
 - a. Have satisfactorily completed a program of supervised clinical experience approved by the Department. Such clinical experience must consist of not less than 900 hours of a planned continuous experience in human nutrition, food and nutrition, or dietetics under the supervision of an individual meeting the qualifications of a medical nutrition therapist; or
2. Have a master's or doctoral degree in human nutrition, nutrition education, food and nutrition, or public health nutrition or in an equivalent major course of study approved by the Board; or
3. A master's or doctoral degree which includes a major course of study in clinical nutrition. Such course of study must consist of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition;
4. Have attained at least the age of majority and have good moral character; and
5. Have been actively engaged in the practice of medical nutrition therapy under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure by reciprocity; and that such licensee has been in the active and continuous practice under license by examination in the state, territory, or District of Columbia from which s/he comes for at least 1 year.

61-003.04B Application Process: The following must be submitted to the Department:

1. A complete application on Attachment A attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered;
2. An official transcript from an accredited college or university showing receipt of one of the following:
 - a. A baccalaureate degree with a major course of study in human nutrition, food and nutrition, dietetics, or an equivalent major course of study approved by the Board; and

- (1) Documentation of at least 900 hours of supervised clinical experience on Attachment A1 or on an alternate form which contains the same information; or
 - b. A master's or doctorate degree in human nutrition, nutrition education, foods and nutrition, or public health nutrition or in an equivalent major course of study approved by the Board; or
 - c. A master's or doctoral degree which included a major course of study in clinical nutrition; and
 - (1) Verification of not less than a combined 200 hours of biochemistry and physiology and not less than 75 hours in human nutrition;
3. Evidence that s/he is at least the age of majority, such as:
 - a. Driver's license;
 - b. Birth certificate;
 - c. Marriage license; or
 - d. Other similar documentation;
4. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
5. If the applicant has been convicted of a misdemeanor or felony:
 - a. Official Court Record, which includes charges and disposition;
 - b. Copies of arrest records;
 - c. A letter from the applicant explaining the nature of the conviction;
 - d. All addiction/mental health evaluations and proof of treatment; and
 - e. A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
6. Documentation that the applicant has been actively engaged in the practice of dietetic and nutrition services under such license or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure by reciprocity; and that such licensee or licensee has been in the active and continuous practice under license by examination in the state, territory, or District of Columbia from which s/he comes for at least one year;
7. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska prior to the application for a license; or
 - b. To the actual number of days practiced in Nebraska prior to the application for a license; and
8. The required licensure fee.

61-003.04C Certification of License: Have the licensing or certifying agency submit to the Department:

1. A certification on Attachment A4 attached to these regulations and incorporated by this reference or an alternate form which contains the same information, verifying that the applicant is duly licensed or certified, that his or her license has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement; and
2. The nature of disciplinary actions, if any, taken against the applicants license or certificate.

61-003.04D Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

61-003.04E Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 61-014, or such other action as provided in the statutes and regulations governing the credential.

61-003.04F Department Review: The Department will act within 150 days upon all completed applications for licensure.

61-004 EXAMINATION PROCEDURES.

61-004.01 The licensure examination may be administered by the Commission on Dietetic Registration or the Department, and the applicant will be notified of the date, time, place other information pertinent to the administration of the examination by the administering agency.

61-005 PROCEDURES FOR RENEWAL OF A LICENSE: All licenses issued by the Department under the Act and 172 NAC 61 expire on September 1 of each odd-numbered year.

61-005.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements as specified in 172 NAC 61-009;
2. Pay the renewal fee as prescribed in 172 NAC 61-013;
3. Respond to the following questions:
 - a. Has your license in any health care profession in another state been revoked, suspended, limited, or disciplined in any manner?
 - b. Have you been convicted of a misdemeanor or felony?These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
 - a. The renewal notice;
 - b. The renewal fee;
 - c. Attestation of completing 24 hours of continuing competency earned within 24 months

- of the date of expiration or an application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
- d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
 - e. If the licensee has been convicted of a felony or misdemeanor:
 - (1) Official Court Record, which includes charges and disposition;
 - (2) Copies of arrest records;
 - (3) A letter from the applicant explaining the nature of the conviction;
 - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.

61-005.02 First Notice: At least 30 days before September 1 of each odd-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

61-005.02A The renewal notice must specify:

- 1. The name of the licensee;
- 2. The licensee's last known address of record;
- 3. The license number;
- 4. The expiration date of the license;
- 5. The renewal fee as prescribed in 172 NAC 61-013;
- 6. The number of continuing competency hours or type of continued competency required for renewal; and
- 7. The option to place the license on either inactive or lapsed status.

61-005.02B The licensee must apply for renewal by submitting to the Department:

- 1. The renewal notice;
- 2. The renewal fee;
- 3. The licensee's social security number;
- 4. Attestation of completing 30 hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency and a listing of the continuing competency activities completed; and
- 5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

61-005.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

- 1. Request that his/her license be placed on inactive status by submitting to the Department:

- a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

61-005.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

61-005.03 Second Notice: The Department must send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 61-005.01 that specifies:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty pursuant to 172 NAC 61-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 61-008.

61-005.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
 - (1) That s/he has not practiced in Nebraska since the expiration of his/her license; or
 - (2) To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 30 hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency and a listing of the continuing competency activities completed; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

61-005.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:

- a. The renewal notice with a check in the box marked inactive; and
 - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
 - a. The renewal notice with a check in the box marked lapsed.

61-005.03C The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

61-005.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

61-005.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

61-005.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 61-005.03 and 61-005.04 will not apply.

61-005.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

61-005.08 An individual who practices after expiration of his/her credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 61-014 or such other action as provided in the statutes and regulations governing the credential.

61-006 AUDIT OF CONTINUING COMPETENCY: The Board may select, in a random manner, a sample of the license renewal applications for audit of continuing competency credits. Each licensee must maintain in his/her personal files such certificates or records of credit from continuing competency activities received from approved providers. Licensees selected for audit must produce documentation of his/her attendance at those continuing competency activities listed on his/her renewal application.

1. When selected for audit, the licensee must provide satisfactory documentation of attendance at or participation in approved continuing competency activities listed on the licensee's renewal form. Satisfactory documentation includes, but is not limited to, certificates of attendance, certified attendance rosters, and letters from sponsors of the continuing competency program/activity verifying attendance.

2. Continuing competency hours for which no documentation of attendance is produced will not be included in the calculation of the total number of approved continuing competency hours earned.
3. Failure to comply with the audit will result in non-renewal of the license.

61-007 WAIVER OF CONTINUING COMPETENCY: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part for any two-year license or for the period of time since the license was last issued, when a licensee submits documentation that circumstances beyond his/her control prevented him/her from completing such requirements.

61-007.01 Circumstances: Circumstances include that the licensee:

1. Holds a Nebraska license but is not practicing medical nutrition therapy in Nebraska;
2. Has been in the service of the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date;
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing competency hours during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed within 24 months immediately preceding the license renewal date.

61-007.02 Application: Any licensee who seeks a waiver of continuing competency must apply to the Board for a recommendation to the Department to waive continuing competency requirements. This application must be made on the renewal notice, and it must be received by the Department on or before September 1, of each year the license is subject to renewal. The licensee must:

1. If the licensee holds a Nebraska license but is not practicing medical nutrition therapy in Nebraska, s/he must mark the appropriate response on the renewal form.
2. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must mark the appropriate response on the renewal form and submit official documentation stating dates of service.
3. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency during the 24 months immediately preceding the license renewal date, s/he must mark the appropriate response on the renewal form and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and the recovery period, and that the licensee was unable to attend continuing competency program/activities during that period.

4. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must mark the appropriate response on the renewal form and list the date said license was issued.

61-007.03 The Department may, upon the recommendation of the Board, grant or deny an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of such requirements.

1. When the Department determines to deny an application for waiver of the continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department, a notice setting forth the reasons for the denial determination.
 - a. The applicant has 30 days from the date of receipt of the denial notice to make a written request to the Department for an appeal. The appeal will be conducted in accordance with 184 NAC 1, Rules of Practice and Procedure for the Department; and
 - b. The Department will issue at the conclusion of the appeal pursuant to 184 NAC 1 a final order setting forth the results of the appeal.
2. When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

61-008 CREDENTIAL REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department may revoke a credential when the credential holder fails to meet the renewal requirements.

61-008.01 Revocation for Nonpayment of Renewal Fee or Late fee, or Failure to Submit Documentation of Continuing Competency within Thirty Days of Expiration of the Credential

61-008.01A When a credential holder fails to pay the required renewal fee, to submit documentation of continuing competency, and/or to pay a late fee of \$25 and fails to request that his/her credential be placed on either inactive or lapsed status within 30 days of its expiration, the Department automatically revokes the credential without further notice or hearing.

61-008.01A1 A post revocation notice will be sent which will specify that:

1. The credential holder was given a first and final notice of renewal requirements and the respective dates for these notices;
2. The credential holder failed to renew the credential or to request that his/her credential be placed on inactive or lapsed status;
3. The Department has revoked the credential; and
4. The credential holder has a right to request reinstatement of the credential.

61-008.02 Revocation for Failure to Meet Continuing Competency Requirements

61-008.02A When a credential holder fails within 30 days of the expiration of his/her

credential to meet the continuing competency requirement, the Department revokes his/her credential after notice and opportunity for a hearing.

61-008.02A1 The revocation notice for failure to meet continuing competency requirements specifies that:

1. The credential holder was given a first and second notice of failure to meet the continuing competency requirement and the respective dates of each notice;
2. The credential holder failed to meet continuing competency renewal requirements or to have his/her credential timely placed on inactive or lapsed status;
3. The credential has been revoked for failure to meet continuing competency requirements within thirty days after expiration of the credential and that the revocation will become final unless a request for hearing is filed by the credential holder with the Department within 30 days of date of receipt of the notice; and
4. The credential holder has a right to request reinstatement of the credential after revocation.-

61-009 CONTINUING COMPETENCY REQUIREMENTS FOR LICENSEES

61-009.01 General Requirements: On or before September 1 of each odd-numbered year, each medical nutrition therapist who is in active practice in the State of Nebraska must meet the following continuing competency requirements:

61-009.01A The licensee must complete 30 hours of approved continuing competency programs/activities during the preceding 24 month period. No more than the total number of approved hours offered in Nebraska will be required during this period;

61-009.01B The licensee must submit to the Department, on the renewal form, verification of meeting the continuing competency requirements. The completed form must include the following information:

1. The title of the program/activity;
2. The number of hours of approved continuing competency credit received for each program/activity;
3. The date(s) of the continuing competency program/activity;
4. The location of the continuing competency program/activity; and
5. The name of the provider of the continuing competency program/activity.

61-009.01C The licensee must be responsible for:

1. Maintaining a record of attendance at approved continuing competency programs/activities;
2. Verifying with the Department that the continuing competency program/activity is approved by the Board; and
3. Maintaining documentation of attendance at or presentation of approved continuing competency programs/activities. A presenter may receive credit for

only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program/activity.

61-009.01D The licensee must attend programs/activities for which the subject matter clearly relates to maintaining skills necessary for the safe and competent practice of medical nutrition therapy and is described, but not limited to, the following:

1. College/University Courses from an approved graduate or undergraduate program.
2. Programs or Presentations that have been approved for continuing competency credit by the Commission on Dietetic Registration.
3. Continuing Education Programs (Workshops, seminars, or conferences). The following additional topic areas are also acceptable providing they clearly relate to maintaining skills necessary for the safe and competent practice of medical nutrition therapy:
 - a. Food Preparation that focuses on nutritional value.
 - b. Nutrition with specialized populations.
 - c. Assessment and Treatment of various disorders.
 - d. Food Service Systems management.
4. Exhibits, or Poster Sessions.
5. Homestudy Programs relevant to one or more areas as specified in 172 NAC 61-009.01D, items 3(a-d).
6. Publications relevant to one or more areas as specified in 172 NAC 61-009.01, items 3(a-d).
7. Certification Programs that are medical nutrition therapy related. The following is a list of approved certification programs:
 - a. Certified Nutrition Support Dietician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
 - b. Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - c. Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
 - d. Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
 - e. Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE); or
 - f. Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR).

61-009.01E Examples of nonacceptable subject matter include, but are not limited to, the following:

1. Menu planning;
2. Dietetic association business meeting or delegate report;
3. Cooking or baking demonstrations;
4. Food service sanitation;
5. Catering;
6. Garnishing techniques;
7. Publishing an employee training manual; or
8. Sales presentation on a company's new product.

61-009.01F If applicable, the licensee must submit an application for waiver of the continuing competency requirement pursuant to 172 NAC 61-007.

61-009.02 Continuing Competency Program/Activities: The Board will evaluate applications from providers of continuing competency programs/activities or licensees in order to determine if approval is to be granted or denied.

61-009.02A Criteria: To be approved, a continuing competency program/activity must meet the following criteria:

1. The program/activity must be at least 60 minutes in duration;
2. The program/activity's objectives must relate directly to the theory or clinical application of theory pertaining to the practice of medical nutrition therapy;
3. Presenters of programs/activities must be qualified by education, experience, or training;
4. Programs/activities must be open to all medical nutrition therapists licensed by the Department who meet the pre-requisites for the program/activity;
5. Program/activity provider must have a process for monitoring and verifying attendance; and
6. The program/activity provider must employ a system to monitor knowledge obtained by the licensee, such as, but not limited to, a final examination or program/activity evaluation.

61-009.02B Approval: To obtain approval of a Continuing Education Program, Presentation, or College/University Coursework, a provider or licensee must submit Attachment B or an alternate form which contains the same information. Only applications which are complete will be considered. The following information must be included in the application:

1. A copy of the agenda of the program/activity indicating actual presentation times, lunch and breaks;
2. The name of the program/activity;

3. A description of program/activity objectives;
4. A description of the qualifications of each presenter. Curriculum vita, resume, or documentation of training in a presentation of program/activities pertaining to dietetics and nutrition services may also be submitted as supporting documentation of the presenter's qualifications;
5. The number of hours for which approval is requested;
6. The name, address, and telephone number of the provider and its administrator or operating officer;
7. A description of the process the provider uses to verify attendance by the licensee;
8. A sample copy of the documentation the provider issues to the licensee as proof of attendance at the program/activity;
9. A sample copy of the final examination or program/activity evaluation that will be used to evaluate the knowledge obtained by the licensee upon completion of the program/activity; and
10. The date, time and place of the program/activity.

61-009.03 Homestudy Programs

61-009.03A Criteria: The Board will evaluate applications from providers of homestudy programs or licensees in order to determine if approval is to be granted or denied. To be approved, a homestudy program must meet the following criteria:

1. The homestudy program's objectives must relate to the enhancement of practice/skills of medical nutrition therapy;
2. The provider must be qualified by education, experience, or training; and
3. The provider must employ a system to monitor knowledge obtained by the licensee completing a homestudy program, such as, but not limited to a final examination or program evaluation.

61-009.03B Approval: To obtain approval of a home study program, a provider or licensee must submit Attachment C attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered. The following information must be included in the application:

1. The name of the textbook or other training material utilized;
2. A description of the qualifications of the provider, which includes the education, experience, and training that qualifies the individual to present and/or develop home study programs. Curriculum vita, resume, or documentation of training in

development of home study programs may also be submitted as supporting documentation of the provider's qualifications;

3. A description of the objectives, which must include a statement of the knowledge which the participants are expected to gain from the outcome of the study; and
4. The name, address, and telephone number of individual submitting the application.

61-009.04 Publications: The Board will evaluate applications from licensees for publications written by a licensee in order to determine if approval is to be granted or denied.

61-009.04A Criteria: To be approved, a publication must meet the following criteria:

1. The publication/article objectives must relate to the enhancement of skills/practice of medical nutrition therapy; and
2. The publication/article must be already published or accepted for publication in a refereed and/or peer reviewed professional journal, or as a chapter of a book, or as a book.

61-009.04B Approval: To obtain approval of a publication, a licensee must submit Attachment D attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only applications which are complete will be considered. The following information must be included in the application:

1. The name of the refereed and/or reviewed professional journal in which the article was published or will appear, or the name of the book. If the article is yet to be published, a letter of acceptance from the publisher or editor must be attached to the application for requesting approval of continuing competency credit;
2. The date of the publication/article;
3. The name, address and telephone number of the licensee submitting the application;
4. A copy of the cover page of the publication;
5. A description of the qualifications of the licensee. Curriculum vita, resume, or documentation of training in development of publications may also be submitted as supporting documentation of the licensee's qualification; and
6. A copy of the abstract, if available, or a copy of the article or table of contents.

61-009.05 Certificate Programs: Pre-approval of completing one of the following certificate programs is not required:

1. Certified Nutrition Support Dietician sponsored by the National Board of Nutrition Support Certification, Inc (NBNSC);
2. Board Certification as a Specialist in Pediatric Nutrition sponsored by the Commission on Dietetic Registration (CDR);
3. Board Certification as a Specialist in Renal Nutrition sponsored by the Commission on Dietetic Registration (CDR);
4. Certified Diabetes Educator sponsored by the National Certification Board for Diabetes Educators (NCBDE);
5. Certified Lifestyle and Weight Management Consultant sponsored by the American Council on Exercise (ACE); or
6. Certificate of Training in Childhood and Adolescent Weight Management sponsored by the Commission on Dietetic Registration (CDR).

The Board will evaluate applications from providers, or licensees, of certificate programs which are not listed above in order to determine if approval is to be granted or denied.

61-009.05A Criteria: To be approved, a certificate program must meet the following criteria:

1. The objectives must relate to the enhancement of skills/practice of medical nutrition therapy;
2. The program must require that candidates meet eligibility requirements; and
3. The program must require that candidates pass an examination to become initially certified and require certificants to pass an examination for recertification in order to remain certified.

61-009.05B Approval: To obtain approval of a certificate program, a licensee or provider must submit Attachment E attached to these regulations and incorporated by this reference or an alternate form which contains the same information. Only application which are complete will be considered. The following information must be included in the application:

1. The name of the certificate program;
2. The objectives of the program;
3. A course outline of the program; and
4. The name, address, and telephone number of the licensee or provider submitting the application.

61-009.06 Exhibits and Poster Sessions: Board review and pre-approval is not required.

61-009.07 Complete Applications: Only applications which are complete will be considered.

1. To be complete, an application must include:

- a. All of the information requested on Attachment B, C, D, or E attached to these regulations and incorporated by this reference or an alternate form which contains the same information; and
 - b. The signature of the licensee or administrator/operating officer for the provider making the application.
2. An applicant may submit such additional documents or information as the applicant may consider relevant to the application and in compliance with the Act and these regulations.
3. In the event that an application is determined to be incomplete, the Department will notify the applicant of the information necessary to complete the application and retain the application submitted pending receipt of such additional information.

61-009.08 Continuing Approval: Once an application for approval of a continuing competency program/activity has been granted by the Board, reapproval is not required for each occasion on which such program/activity is administered within the biennial renewal period, so long as the program/activity is not changed, or so long as the program/activity requirements are not changed by law.

For each subsequent renewal period and if the program/activity, or any portion of a program/activity is changed within the renewal period, reapplication must be made in accordance with 172 NAC 61-009.02 through 172 NAC 61-009.07.

61-009.09 National, Regional, and International Sponsored Program/Activities: Program/activities sponsored by national, regional, or international nutrition associations or associations directly related to enhancing the practice of medical nutrition therapy need not apply for approval. Sessions must be professionally oriented and approved by that association for continuing competency. The licensee must list each session name for the professionally oriented session(s) s/he attended during the program/activity on the continuing competency form, which will be sent to her/him with the renewal notice. Only the number of hours indicated as approved by the sponsoring organization will be acceptable for renewal. A sample of associations which will be automatically approved are: the American Dietetic Association (ADA); the American Society of Parenteral and Enteral Nutrition (ASPEN); and the American Diabetic Association.

61-009.10 Prior Approval: To obtain prior approval of continuing competency program/activity(s), a complete application must be received by the Board at least 45 days prior to the date on which the program/activity is to be given. The Board will act within 60 days upon all completed applications for continuing competency approval and will notify the applicant.

61-009.11 Post-Program/Activity Approval: Applications for approval of continuing competency programs/activities may be made after the program/activity has occurred.

61-009.12 Advertisement of Approvals: After the Board has granted its written approval of the application, the provider is entitled to state upon its publications: "This program/activity is approved for ____ (number of hours approved) by the Nebraska Board of Medical Nutrition Therapy".

61-009.13 Continuing Competency Certificate of Completion: Each provider of an approved continuing competency program/activity must furnish to each person completing the program/activity a certificate of completion.

1. Each certificate must include the following:
 - a. Program/activity name;
 - b. Name of the participant and his/her license number;
 - c. Provider's name; and
 - d. Number of hours received by the licensee, not to exceed the number of hours granted for the program/activity.
2. Presentation of the certificate constitutes evidence that the person complied with all requirements of the program/activity and completed the program/activity.

61-009.14 Program/Activity Monitoring: The provider must employ a reliable system to monitor the physical presence of participants throughout the entire program/activity. If a participant chooses not to participate in the entire program/activity, the certificate of attendance must reflect the participant's actual hours of attendance.

61-009.15 Denial of Continuing Competency Program/Activities: The Department will deny an application for approval of a continuing competency program/activity or will suspend or revoke approval of a continuing competency program/activity on any of the following grounds:

1. Fraud or misrepresentation of information in an application.
2. Program/activity content or the presenter's qualifications fail to meet requirements specified in 172 NAC 61-009.02 or 61-009.03.
3. If the program/activity's objectives do not relate to the theory or clinical application of theory pertaining to the practice of medical nutrition therapy.
4. Failure to reflect participant's actual hours of attendance upon the certificate issued.

61-009.15A The Board may grant or deny an application for approval of continuing competency program/activities. Should the Board determine to deny an application for a continuing competency program/activity, the Division will send to the applicant by either certified or registered mail to the last address of record in the Department, a notice setting forth the reasons for the determination.

61-009.15B Denial of an application submitted by a provider becomes final 30 calendar days after receipt of the notice unless the applicant within such 30 day period, gives written notice to the Department of a desire for hearing. The hearing will be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

61-010 GROUNDS ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

61-010.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure as specified in 172 NAC 61-003, or is found to be in violation of any of the provisions of 172 NAC 61-010.03.

61-010.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements specified in 172 NAC 61-005 or in 172 NAC 61-010.03.

61-010.03 The Department may deny, refuse renewal of, limit, suspend, or revoke licenses for any of the following grounds and those specified in Neb. Rev. Stat. §71-147:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license.
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this State.
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. §71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, or licensee's fitness or capacity to practice the profession.
5. Practice of the profession (a) fraudulently, (b) beyond its authorized scope, (c) with manifest incapacity, (d) with gross incompetence or gross negligence, or (e) in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession.
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability.
7. Physical or mental incapacity to practice the profession as evidenced by a legal adjudication or a determination thereof by other lawful means.
8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license or certificate by a person not licensed to do so.
9. Having had his or her license denied, refused renewal, limited, suspended, or revoked, or having had such license disciplined in any other manner in accordance with Neb. Rev. Stat. 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant or licensee similar to acts described in 172 NAC 61-010. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license or the taking of other disciplinary measures against it by another state or jurisdiction shall be conclusive evidence.
10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. 71-148 or such other acts as may be defined in rules and regulations adopted and promulgated by the Board with the approval of the Department.

11. Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims concerning such licensee's professional excellence or abilities, in advertisements.
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act.
13. Distribution of intoxicating liquors, controlled substances or drugs for any other than lawful purposes.
14. Willful or repeated violations of the Uniform Licensure Law or 172 NAC 61.
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee is not licensed or certified to practice.
16. Practicing the profession of medical nutrition therapy while his or her license is suspended or in contravention of any limitation placed upon his or her license.
17. When the applicant is found to be not qualified to practice the particular profession or occupation for which s/he is applying, licensed, or certified because of physical or mental illness or physical or mental deterioration or disability.
18. Refusal of an applicant for a license to submit to a physical or mental examination request by the Board, pursuant to Neb. Rev. Stat. 71-161.12 to 71-161.16 to determine his or her qualifications to practice or to continue in the practice of the profession or occupation for which application was made or for which s/he is licensed or certified.
19. Failure to file a report required by Neb. Rev. Stat. 71-168.

61-010.04 If the Department proposes to deny, refuse renewal of, limit, revoke, or suspend the license of a licensee, the applicant or licensee must be given an opportunity for a hearing before the Department and must have the right to present evidence on his/her own behalf. Hearings before the Department must be conducted in accordance with the Administrative Procedure Act and 184 NAC 1, the Rules of Practice and Procedure for the Department.

61-011 UNPROFESSIONAL CONDUCT: In addition to the acts specified in Neb. Rev. Stat. §71-148 of the Uniform Licensing Law, actions or practices which fail to conform to accepted standards for medical nutrition therapy and which could jeopardize the health, safety, and welfare of the patient constitute unprofessional conduct by a medical nutrition therapist and include but not be limited to the following:

1. Intentional failure to report through the proper channels the incompetent, unethical, or illegal practice of any person who is representing himself or herself as a licensed medical nutrition therapist.
2. Engaging in sexual harassment of a patient. Sexual harassment means deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unnecessary in the professional relationship with a patient.

3. Discrimination against other individuals on the basis of race, creed, religion, sex, age, and national origin.
4. Failure to remain free of conflict of interest while fulfilling the objectives and maintaining the integrity of the medical nutrition therapy profession.
5. Failure to maintain confidentiality of information.
6. Failure to use factual information to inform the public and colleagues of his\her services.
7. Advertising in a false or misleading manner.
8. Promoting or endorsing products in a manner that is false or misleading.
9. Permitting the use of her\his name for the purpose of certifying that medical nutrition services have been rendered when he\she has not provided or supervised the provision of those services.
10. Attempting to provide treatment information to patient(s) that is beyond the licensees level of education, training and expertise.
11. Delegating to other personnel those patient related services for which the clinical skills and expertise of a licensee are required.
12. Encouraging or promoting the practice of medical nutrition therapy by untrained or unqualified persons.
13. Failure to safeguard the patient's dignity and right to privacy.
14. Performing or agreeing to perform medical nutrition therapy services that have been requested when such services are known to be contraindicated or unjustified.
15. Performing or agreeing to perform procedures that have been requested when such procedures are known to be outside of the medical nutrition therapy scope of practice.
16. Obtaining any fee for professional services by fraud, deceit or misrepresentation including, but not limited to, falsification of third party claim documents.
17. The use of any letters, words or terms, either as a prefix, affix, or suffix on stationery, in advertisements or otherwise, indicating that such person is entitled to practice a system or mode of healing for which s/he is not licensed and/or certified.
18. The violation of an assurance of compliance entered into under Neb. Rev. Stat. §71-171.02 of the Uniform Licensing Law.
19. Failure to keep and maintain adequate records of treatment of service.
20. The use of undue influence to entice patients to commit actions that are emotionally or financially detrimental.

21. Being unable to competently perform medical nutrition therapy functions because of a psychological impairment.
22. Use of alcohol or other drugs to the point that there is interference with the performance of services provided by the professional.
23. Falsifying or not completing patient's records.
24. Nothing in 172 NAC 61-010 or 61-011 shall be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

61-012 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

61-012.01 Eligibility

61-012.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;
3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

61-012.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

61-012.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 61-014, and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

61-012.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have his/her credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the requirements pursuant to 172 NAC 61-005.

61-012.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 61-014;

2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.02C The Department will act within 150 days on all completed applications.

61-012.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 61-012.02A and 61-012.02B are final.

61-012.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that they meet the following requirements:

1. Meet renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee and any other applicable fees.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

61-012.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;

- [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - [1] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the applicant.
- f. Verification that the continuing competency requirements for renewal have been met;
- 2. The renewal fee and any other applicable fees; and
- 3. Attestation by applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

61-012.04A If an applicant has practiced while his/her credential was inactive, the Department may:

- 1. Assess an Administrative Penalty pursuant to 172 NAC 61-014;
- 2. Initiate disciplinary action against the credential;
- 3. Deny the request to move the credential from inactive to active status; or
- 4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

- 1. Initiate disciplinary action against the credential;
- 2. Deny the request to move the credential from inactive to active status; or
- 3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.04C In either event pursuant to 172 NAC 61-012.04A or 61-012.04B, a notice and the opportunity for hearing will be given to the applicant.

61-012.04D The Department will act within 150 days on all completed applications.

61-012.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees.
2. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

61-012.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
 - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - (f) Verification that the continuing competency requirements for renewal have been met;
2. The renewal fee, the late fee of \$35 and any other applicable fees; and
3. Attestation by the applicant:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
 - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 61-014 in which case a notice and opportunity for hearing will be sent to the applicant.
 - (2) If an applicant has practiced after his/her credential was revoked,

or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 61-012.06B below.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

61-012.06A The Board's recommendation to the Department may be to:

1. Reinstatement the credential;
2. Reinstatement the credential with terms, conditions or restrictions; or
3. Deny reinstatement.

61-012.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

1. Reinstatement the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 61-014 if warranted;
2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
 - a. Reinstatement the credential with terms, conditions or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 61-014 if warranted; or
 - b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
 - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
 - a. The continuing competency requirements; and
 - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

61-012.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
 - c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was active;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner.
 - (6) Verification that the continuing competency requirements for renewal have been met.
 2. The renewal fee, the late fee of \$75 and any other applicable fees; and
 3. Attestation by the petitioner:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or

- b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 61-014 in which case a notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 61-012.08E below.

61-012.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

61-012.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

61-012.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

61-012.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

61-012.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

61-012.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

61-012.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

61-012.08F1 If the Board recommends reinstatement of the credential, the Department may:

- 1. Accept the Board's recommendation and grant reinstatement of the credential.
- 2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential, or

- b. Grant reinstatement with terms, conditions, or restrictions.

61-012.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
 - a. Deny reinstatement of the credential; or
 - b. Grant reinstatement of the credential.

61-012.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

61-012.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement;
 - a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
 - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
3. If the credential was revoked or suspended, attest:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

61-012.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
 - a. Stating the reason the petitioner believes his/her credential should be reinstated;
 - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal

knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.

- c. Containing the following information about the petitioner:
 - (1) Name;
 - (2) Address;
 - (3) Social security number; and
 - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
 - (5) A statement describing all:
 - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
 - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
 - [a] Official Court Record, which includes charges and disposition;
 - [b] Arrest records;
 - [c] A letter from the petitioner explaining the nature of the conviction;
 - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
 - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
 - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (c) Disciplinary charges pending against any professional credential held by the petitioner;
 - (6) Any continuing competency activities.
- 2. The reinstatement fee of \$75.
- 3. Attestation by the petitioner, if the credential was revoked or suspended:
 - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
 - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
 - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 61-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
 - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 61-012.10F below.

61-012.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148.
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the Board;
3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

61-012.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

61-012.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

61-012.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

61-012.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

61-012.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

61-012.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

61-012.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

61-012.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its

recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

61-012.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
 - a. The application must include:
 - (1) Name of the petitioner; and
 - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
 - a. The application;
 - b. The written recommendation of the Board, including any finding of fact or order of the Board;
 - c. The petition submitted to the Board;
 - d. The record of hearing, if any;
 - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
 - a. When the Director affirms, modifies or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
 - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

61-012.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time

61-012.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

61-012.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
 - a. Name;
 - b. Address;
 - c. Social security number; and
 - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
 - e. A statement describing all:
 - (1) Felony or misdemeanor convictions during the time period since the credential was active;
 - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
 - [1] Official Court Record, which includes charges and disposition;
 - [2] Arrest records;
 - [3] A letter from the applicant explaining the nature of the conviction;
 - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
 - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
 - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
 - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
 - (3) Disciplinary charges pending against any professional credential held by the applicant.
 - f. Any continuing competency activities.
 - g. Attest:
 - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
 - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

61-012.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 61-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

61-012.11A4 In either event pursuant to 172 NAC 61-012.11A2 or 61-012.11A3, a notice and the opportunity for hearing will be given to the applicant.

61-012.11A5 The Department will act within 150 days on all completed applications.

61-012.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

61-012.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

61-012.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 61-014.

61-012.13 Credentials Voluntarily Surrendered or Limited Permanently

61-012.13A Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not be restored.

61-013 SCHEDULE OF FEES: The following fees have been set by the Department:

61-013.01 Initial License Fee: By an applicant for a license to practice medical nutrition therapy, the fee of \$30 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal period.

61-013.02 Pro-rated Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date a fee of \$25 and the Licensee Assistance Program fee of \$1.

61-013.03 License Renewal Fee: By an applicant for renewal on a biennial basis of a license to practice medical nutrition therapy the fee of \$15 and the Licensee Assistance Program fee of \$2.

61-013.04 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

61-013.05 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

61-013.05 Certification of License Fee: For issuance of a certification of a license, the fee of \$25.

The certification includes information regarding:

1. The basis on which a license was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license; and
4. The current status of the license.

61-013.06 Verification of License Fee: For issuance of a verification of a license, the fee of \$5. The verification includes written confirmation as to whether a license was valid at the time the request was made.

61-013.07 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

61-013.08 Administrative Fee: For a denied license or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing fee is less than \$25, the fee will be forfeited.

61-013.09 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

61-013.10 Reinstatement Fee: For reinstatement following suspension, limitation, or revocation for disciplinary reasons, the fee of \$75.

61-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practices without a license. Practice without a license for the purpose of this regulation means practice:

1. Prior to the issuance of a license;
2. Following the expiration of a license; or
3. Prior to the reinstatement of a license.

61-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a license:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, or treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; or
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

61-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a license. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
 - a. The total amount of the administrative penalty;
 - b. The evidence on which the administrative penalty is based;
 - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
 - d. That the Department will within 30 days following receipt of payment of the administrative penalty, transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
 - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

Effective Date
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NEBRASKA HEALTH AND HUMAN SERVICES
REGULATIONS AND LICENSURE

172 NAC 61

61-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and the Department's rules and regulations adopted pursuant to these statutes.

Approved by the Attorney General:	October 21, 2004
Approved by the Governor:	November 30, 2004
Filed with the Secretary of State:	November 30, 2004

EFFECTIVE DATE: **December 5, 2004**

Forms referred to in the body of these regulations are available upon request.